FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Moning Commissioner as a Perition for Special Hearing and a Petition for Zoning Variance filed by the legal owner of the subject property, Gaetano Platania, by and through his attorney, Robert A. Breschi, Esquire. The Petitioner requests a special hearing to approve a use permit for commercial parking on Parcel A of the subject property, zoned D.R. 5.5 and known as 1 Cinder Road, to support the adjacent properties known as 2067 and 2069 York Road, zoned B.L. The Petitioner also requests variance relief from Section 1801.1.8.1.C and 1801.1.8.1.E.2 to permit a buffer and setback of 0 feet for the north and south sides of the property in lieu of the required 50 feet, and a buffer and setback of 3 feet for the east side of the property, in lieu of the required 75 feet, for the property known as 1 Cinder Road; and from Section 102.2 and 1892.3.8 to permit a rear yard setback of 2 feet in lieu of the required 30 feet for the existing dwelling on the property known as 1 Ginder Road, all as more particularly described on Petitioner's Exhibit 1.

Appearing on behalf of the Petitions were Gaetano Platania, properry owner, and his counsel, Robert A. Breschi, Esquire. Also appearing on behalf of the Petitions was Paul Lee, Registered Professional Engineer. There were no Protestants.

Postimony indicated that the subject properties, known as 1 Cinder Road, and 2067-2069 York Road, consist of 17,149 sq.ft. more or less, split Boned B.L. and D.R. 5.5. The property known as I Cinder Road is improved with a two-story dwelling used for residential purposes and is located immediately adjacent to and north of the properties known as 2067 and 2069 York Road. The properties known as 2067 and 2069 York Road are improved with a two-story duplex dwelling unit; 2067 York Road contains a retail store on the first floor and an apartment on the second floor and 2069 York Road contains a hair salon on both the first and second floors. The Petitioner is desirous of utilizing the rear of the property known as 1 Cinder Road, and depicted as Parcel A on Petitioner's Exhibit 1, for parking associated with the business uses at 2067 and 2069 York Road. In conjunction with the special hearing request, the requested variances are necessary in order to extend the existing parking area on the B.L. zoned portion of the site into the Residential Transition Area of the subject property and to utilize the D.R. 5.5 zoned portion of the property as a commercial parking area for the business uses on the B.L. zoned portion of landscape plan to be submitted for review and approval.

After due consideration of the testimony and evidence presented,

the site. Testimony indicated that the Petitioner met with the community who have no objections to his plans. Further testimony indicated that the Petitioner met with the Landscape Planner for Baltimore County who agreed that the existing landscaping was proper and that there was no need for a

, it is clear that practical difficulty or unreasonable hardship would result if the relief requested in the special hearing were not granted. It has been established that the requirements from which the Petitioner seeks relief would unduly restrict the use of the land due to the special condi-

tions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety, and general welfare.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

it is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the require-> ments from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Peti-

- 3-

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

which is presently zoned B.L. & D.R. 5.5

1/We do sciemnly declare and affirm, under the penalties of perjury, that I/we are the

Gaetano Platania

for the property located at 2067 & 2069 York Rd. & #1 Cinder Rd.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County.

A use permit to allow commercial parking (depicted on Parcel A of

I, or we, agree to pay expenses of above Special Hearing advertising, posting, etc., upon filling of this petition, and further agree to and

are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County

the attached Site Plan) at #1 Cinder Road zoned D.R. 5.5 for adjacent properties of 2067 and 2069 York Road zoned B.L.

This Petition shall be flied with the Office of Zoning Administration & Development Menagement.

Property is to be posted and advertised as prescribed by Zoning Regulations.

to determine whether or not the Zoning Commissioner should approve

409 Washington Ave. 296-6820

tioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing and variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this $\frac{16}{100}$ day of November, 1992 that the Petition for Special Hearing to approve a use permit for commercial parking on Parcel A of the subject property, zoned D.R. 5.5 and known as I Cinder Road, to support the business uses on the adjacent properties known as 2067 and 2069 York Road, zoned B.L., in accordance with Petitioner's Exhibit 1, be and is hereby CRANTED; and.

IT IS FURTHER ORDERED that the Petition for Zoning Variance requesting relief from Sections 1801.1.8.1.C and 1801.1.8.1.E.2 of the B.C.Z.R. to permit a buffer and setback of 0 feet for the north and south sides of the property in lieu of the required 50 feet for the property known as 1 Cinder Road, and a buffer and setback of 3 feet for the east mide of the property in lieu of the required 75 feet for the property known as 1 Cinder Road, and from Sections 102.2 and 1802.3.B of the B.C.Z.R. to permit a rear yard setback of 2 feet in lieu of the required 30 feet for the existing dwelling on the property known as 1 Cinder Road, be and is hereby GRANTED, subject to the following restrictions:

> 1) The Petitioners may apply for their use permit for parking and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

93-97-5PHA

1B01.1.B.1.C and 1B01.1.B.1.@.2 to permit 0' buffer and setback for the north and south side of property and a 3' buffer and setback for the east side of property all in lieu of 50' and 75' respectfully, as shown on the site plan attached to extend the existing parking lot of the B.L. zoned properties of 2067 and 2069 York Road into #1 Cinder Road zoned D.R. 5.5 which will be into the residential transition area (RTA). Section 102.2 and 1802.3.8 to permit a 2' rear yard setback in lieu of required 30' (a variance of

Petition for Variance

to the Zoning Commissioner of Baltimore County for the property located at 2067 & 2069 York R. & #1 Cinder Rd.

which lik presently zoned B.L. & D.R.5.5 This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reasons: (indicate hardship or Lack of parking on York Road creating dangerous situations and there is no other available space for additional parking.

Property is to be posted and advertised as prescribed by Zoning Regulations. f, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filling of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

	<u>.</u>			legal owner(s) of the property which is the subject of this Petition		
DA FILING	Contract Purchaser/Lessee:			Legal (?wner(s)		
	(Type or Print Name)	····		Gaetano Platania		
	Signature			Granding Flict	unica	
	Address			(Type or Print Name)		
	City Altorney for Petitioner	State	Zipcode	Signature		
	Robert A. (Type or Print Name)	Breschi	·-···-	308 Timonium Rd.	252-5992 Phone No	
	(Kulu 1415	Zew. lev		Timonium	MD 21093	
	Suite 600		City Name, Address and phone number of legal or to be contacted	State Zipcode mer, contract purchaser or representat		
	409 Washing	ton Ave. 2	96-6820			
DOWN	Towson	Phone MD	21204	Name		
	City	State	Zipcode	Address	Phone No	
			And Married World	OFFICE US ESTIMATED LENGTH OF HEARING unavailable fo	1hc.	
\$. 4 2		•	the following dates	Hert Two Months	
ORIO Certe	•			ALLOTHER	DATE 9/15/92	
=						

The driveway between the properties known as 2069 York Road and Jiffy Lube shall be for exiting only and shall be appropriately posted by signage and the paint-

3) When applying for any permits, the site plan and/ or landscaping plan filed must reference this case and set forth and address the restrictions of this Order.

ing of arrows on the macadam driveway.

Deputy Zoning Commissioner

for Baltimore County

Zoning Commissioner

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

Robert A. Breschi, Esquire Towson, Maryland 21204

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE E/S York Road, 128' S of the c/l of Cinder Road (2067-2069 York Road, and 1 Cinder Road) 8th Election District - 4th Councilmanic District Gaetano Platania - Petitioner Case No. 93-97-A

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3351.

TMK:bjs

cc: People's Counsel

Very truly yours, TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

Baltimore County Government Office of Planning and Zoning

November 18, 1992

409 Washington Avenue, Suite 600

Dear Mr. Breschi:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been granted in accordance with the attached Order.

TMK:bjs

Paul La P.E.

93-97-8PHA

Paul Leo Engineering Inc.
301 W. Proceeding An.

Journ Maryland 2401



(410) 887-3353

DESCRIPTION

PARCEL A - 4766 S.F. + (0.11 Ac. +) (PART OF #2067 YORK ROAD, #2069 YORK ROAD AND #1 CINDER ROAD) ELECTION DISTRICT 8C4 BALTIMORE COUNTY, MARYLAND

Beginning for the same at the intersection of the north property line of #2069 York Road and the "BL and DR 5.5" zoning line as shown on Baltimore County Zoning Map NW13A, Scale 1"=200", said point of beginning also being located Southerly 128 feet + and then Easterly along the north property line of #2069 York Road, 121 feet + from the center of Cinder Road, thence continuing along said north property line of #2069 York Road (1) Easterly 13 feet + to intersect the west property line of #1 Cinder Road, thence continuing along the extension of said north side of #2069 York Road Easterly 5 feet + to a point 66 feet + south of the south side of Cinder Road; thence binding on a line parallel to and 66 feet + south of the south side of Cinder Road, (2) Easterly 51 feet + to the east property line of #1 Cinder Road, thence binding on said east property line (3) Southerly 81 feet + to the south property line of #1 Cinder Road, thence binding on said south property line (4) Westerly 35 feet + to the west property line of #1 Cinder Road, thence binding on said west line (5) Northerly 18 feet + to a point intersecting the extension of the south property line of #2067 York Road, thence binding on the extension of and south property line (6) Westerly 26 feet + to the intersection of the BL and DR 5.5 zoning line as shown on Baltimore County Zoning Map NW13A, thence binding on side zoning line (7) Northerly 67 feet + to the point of beginning.

Containing 4766 S.F. \pm (0.11 Ac.+) of land.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

SEPTEMBER 29, 1992

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeaks Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

CASE NUMBER: 93-97-SPHA (Item 91) E/S York Road, 128' S of c/l Cinder Road 2067 & 2069 York Road and #1 Cinder Road 8th Election District - 4th Councilmenic Petitioner(s): Gmetano Platania

HEARING: MONDAY, MOVEMBER 2, 1992 at 9:00 a.m. in Rm. 118, Old Courthouse.

Special Hearing to approve a use permit to allow commercial perking at #1 Cinder Road for adjacent properties of #2067 and #2069 York Road. Variance to permit a zero foot buffer and setback for the north and south side of property and a 3 foot buffer and setback for the east side of property, in lieu of 50 feet and 75 feet respectively, to extend the existing parking lot of the B.L. zoned properties of #2067 & 2069 York Road and #1 Cinder Road zoned D.R.-5.5 which will be into the residential transistion area; and to permit a 2 foot rear yard setback in lieu of the required 30 feet.

Baltimore County

cc: Gaetano Platenia Robert A. Breschi, Esq.

NOTE: HEARINGS ARE HAMDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353.

District 82	Date of Posting 10/16/92
Posted for: Spocial Harring Posted for: Goatano Platan	Y Volion()
Location of property: 2867 8 3069 40	orkRd, E/s 178' s/ander Ad
	y or property & Pokhors
Laceton or order	
Remarks: Posted by Malesly	Date of return: 10/23/92

PUBLIC HEARING FEES ÖZO -ZONING VARIANCE (DTHER) \$250.00 040:-SPECIAL HEARING (OTHER) \$250.00 TOTAL: \$500.00 LAST NAME OF OWNER: PLATANIA 04A04#0024HICHRC Please Make Checks Payable To: Baltimore County

Baltimore County Government
Office of Zoning Administration

October 20, 1992

RE: Item No. 91, Case No. 93-97-SPHA

Petition for Variance & Special Hearing

Petitioner: Gaetano Platania

(410) 887-3353

and Development Management Office of Planning & Zoning

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans

submitted with the above referenced petition. The attached comments

from each reviewing agency are not intended to indicate the

appropriateness of the zoning action requested, but to assure that all

Enclosed are all comments submitted thus far from the members of ZAC

that offer or request information on your petition. If additional

comments are received from other members of ZAC, I will forward them

to you. Otherwise, any comment that is not informative will be placed

in the hearing file. This petition was accepted for filing on the

date of the enclosed filing certificate and a hearing scheduled

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1) The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions

filing requirements can file their petitions with this office without the necessity of a preliminary review by Zoning personnel.

parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed

improvements that may have a bearing on this case.

taliesen Zoning Administration & Development Management est Chesopeake Avenue son, Maryland 21204 Account: R-001-6150 《梅香·李·图41.49解 计解数 多次 多次 4.1 · · Please Make Checks Payable To: Baltimore County

Office of Planning & Zoning 111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

Gaetano Platania 308 W. Timonium Road Timonium, Maryland 21093

CASE NUMBER: 93-97-SPHA (Item 91) E/S York Road, 128' S of c/l Cinder Road 2067 & 2069 York Road and #1 Cinder Road 8th Election District - 4th Councilmanic Petitioner(s): Gaetano Platania HEARING: MONDAY, NOVEMBER 2, 1992 at 9:00 a.m. in Rm. 118, Old Courthouse.

Dear Petitioner(s):

Please be advised that $\frac{99.33}{}$ is due for advertising and posting of the above captioned

Baltimore County Government Office of Zoning Administration

and Development Management

THIS PEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please forward your check via return mail to the Zoning Office, County Office Building, 111 W. Chesapeake avenue, Room 109, Towson, Maryland 21204. Place the case number on the check and make same payable to Baltimore County, Maryland. In order to avoid delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing this

Petitioner: Gaetano Platania Petitioner's Attorney: Robert A. Breschi

15th day of September, 1992.

LAGRAMORE BUNGRO, MALYMAN OT NOTE BOROTO I ROUT OF BOROTO NOT BOTO SHO

The Arms II datables. Decree to a second PATE of set larger of the Control of the FROM Report W. Howling, 1 D., Olly bevelper Englishering Division RET Zaciet Advisory Committee Mestli Committee by the Committee The Developers Engineering Mivis by has nevisually

the subject boiling items. We resemble that the literal of

to comply with the requirements of the Landser, at the con-

RWB: PAK:

ZONING OFFICE

111 West Chesapeake Avenue

Robert A. Breschi, Esquire

Towson, MD 21204

Dear Mr. Breschi:

accordingly.

409 Washington Avenue, Suite 600

Towson, MD 21204



O. James Lighthizer Secretary Hal Kassoff Administrator

October 2, 1992

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue

Re: Baltimore County
MD 45
Platania Property
Item No: +91 (MJK)

Towson, Maryland 21204

Dear Ms. Winiarski:

This office has reviewed the referenced item and has no objection to approval as the existing access to MD 45 is acceptable.

Although we realize access to the property has been in operation for some time, we have some concerns about the traffic circulation entering and exiting the site from MD 45.

If possible, the entrances should be signed for one-way traffic with the south access being used as an entrance only, and the north access as an exit only. This proposal would also be consistent with the layout of the existing parking to the rear of the property. The only potential conflict with this change may be the impact to the adjoining property to the south.

We recommend approval subject to the aforementioned comments.

Please contact David Ramsey of this office at (410) 333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours,

John Contestabile, Chief Engineering Access Permits

DNR:maw cc: Paul Lee Engineering, Inc.

301-333-1350 (Fax# 333-1041)

Division

Teletypewriter for Impaired Hearing or Speech 383-7555 Baltimore Metro - 565-0451 D.C. Metro - 1-800-492-5062 Statewide Toll Free 707 North Calvert St., Baltimore, Maryland 21203-0717 BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

DATE:October 7, 1992

TO: Arnold Jablon, Director
Zoning Administration &
Development Management

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: 2067 and 2069 York Road and Cinder Road

INFORMATION: Item Number:

Petitioner: Gaetano Platania

ty Size: 0.394 acre

BL, DR 5.5

Hearing Date

SUMMARY OF RECOMMENDATIONS:

The petitioner is requesting a Special Hearing to approve a use permit to allow commercial parking at #1 Cinder Road which is zoned DR 5.5. The petitioner is also requesting a variance to permit 0' buffer and setback for the north and south side of the property and a 3' buffer and setback for the east side of the property in lieu of 50' and 75' respectfully. Also to extend the existing parking lot of the BL zoned properties of 2067 and 2069 York Road into #1 Cinder Road which is zoned DR 5.5 which will be into the RTA and to permit a 2' rear yard setback in lieu of the required 30'.

Special Hearing, Variance

The Office of Planning and Zoning recommends APPROVAL with the following conditions. This site is entirely paved and devoid of any landscaping. Also, vehicles park at the front of the building. Our Office recommends that a landscape plan be submitted to the Baltimore County Landscape Architect for approval. The landscape plan must include landscape planting along the frontage of York Road and vehicles should not be allowed to park in front of the building. The parking lot in the rear encroaches into the residential neighborhood, therefore, the landscape plan must address screening that buffers the adjacent residential homes from the parking lot. Finally, the petitioner should investigate the potential of reconfiguring the parking area of the adjacent businesses into a shared parking arrangement. Such a reconfiguration may provide adequate parking for all of the businesses in the block fronting York Road.

Prepared by: tanco Mowey

Division Chief: Emer Manual

·

Red 2 10/14/92

Pg. 1

BUREAU OF TRAFFIC ENGINEERING DEPARIMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: September 30, 1992

O: Mr. Arnold Jablon, Director
Office of Zoning Administration
and Development Management

ROM: Rahee J. Famili

SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: September 28, 1992

ITEM NUMBER: 91

"DO NOT ENTER" signs need to be installed at the northern access.

Rahee J. Famili
Traffic Engineer II

RJF/1vd

OCT 5 1992

ZONING OFFICE

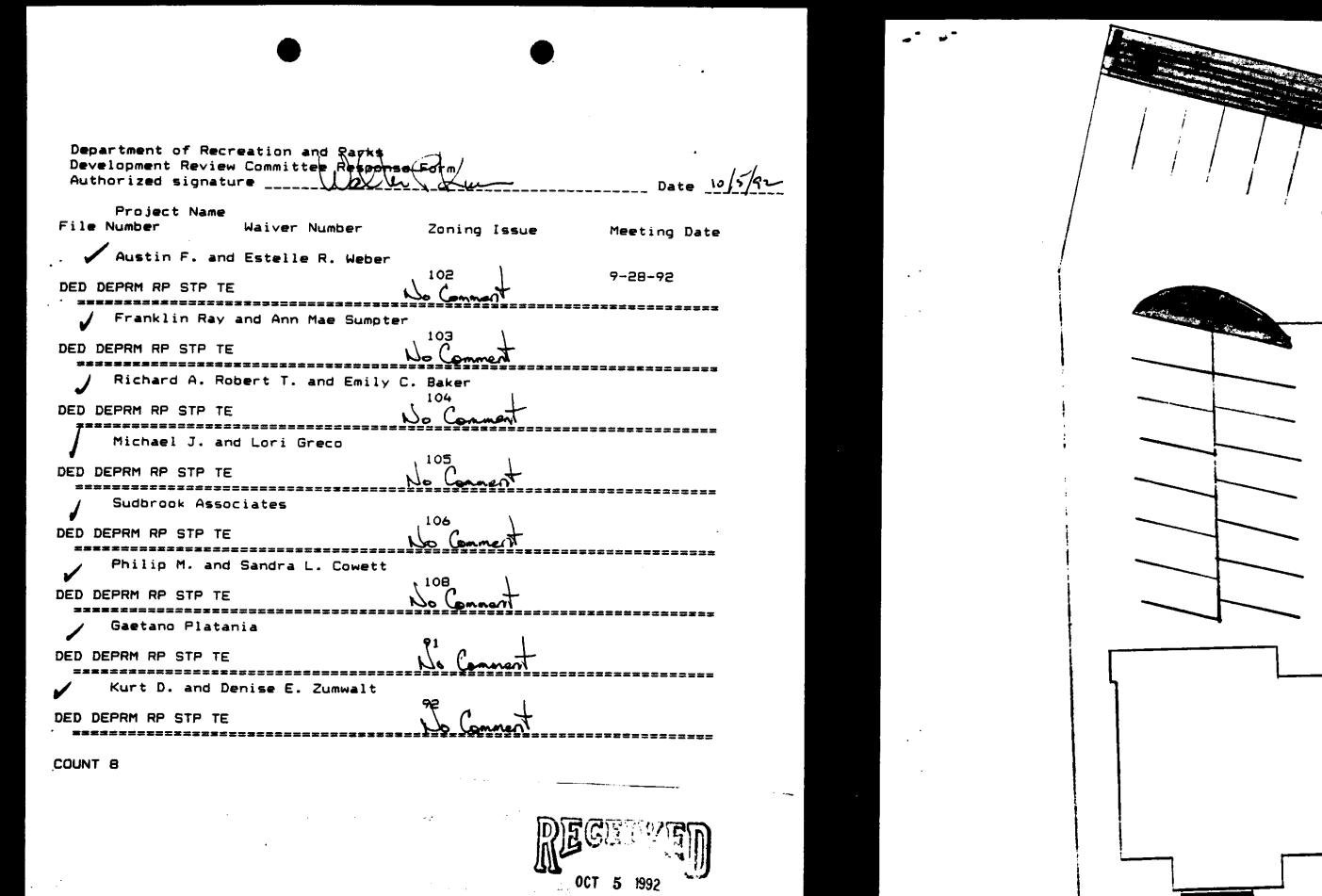
LANDSCAPING

WANT LANDSCAPING

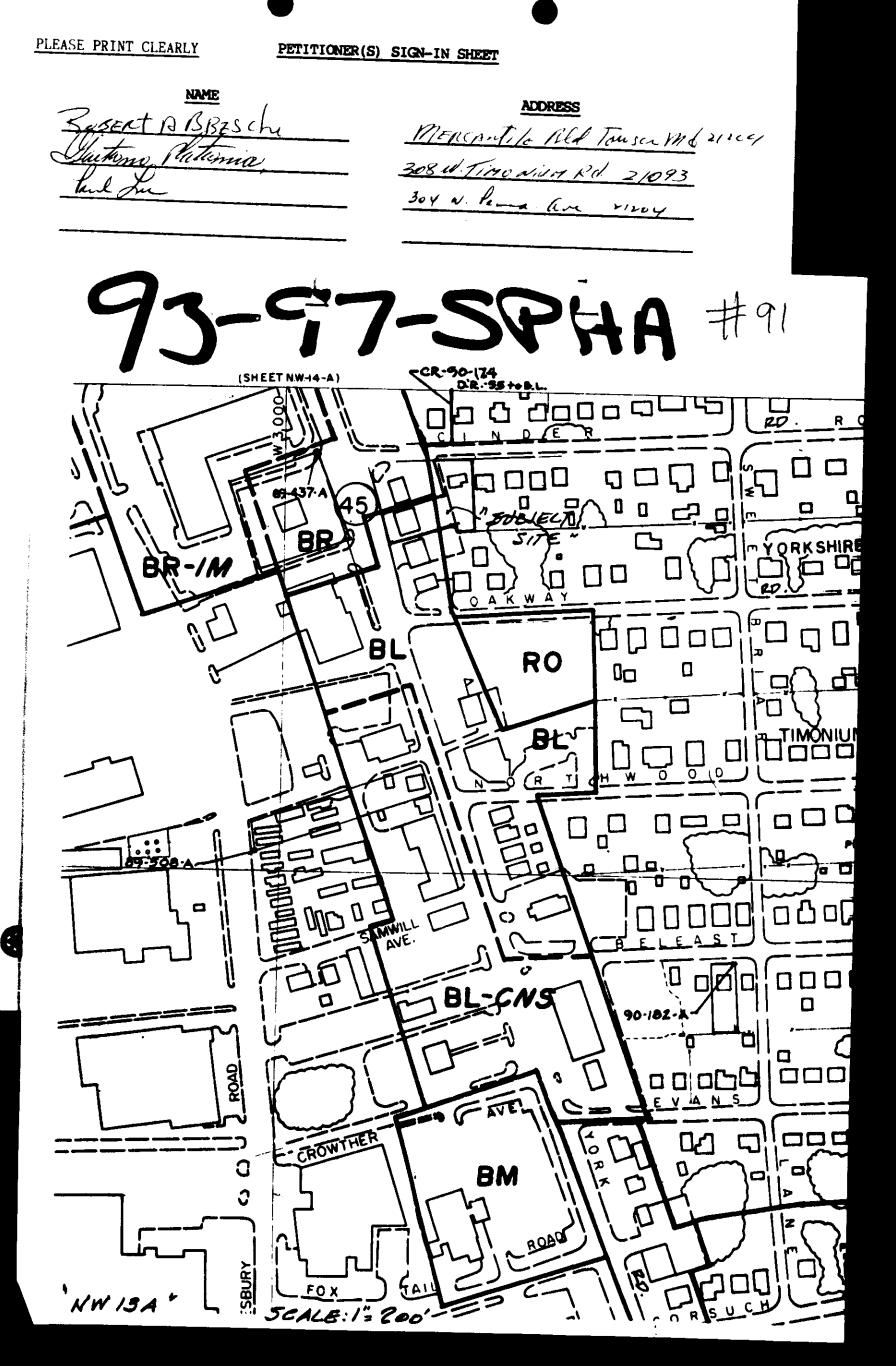
SIDEWALK

Department of Environmental Projection & Resource Management 10/05/92

Development Review Committee Response Form
Authorized signature Date 10:5:92 Project Name File Number Waiver Number Zoning Issue Meeting Date Claude N. and Gee Gee Z. Pfeffer B/14/92 COUNT 4 Michael and Patricia Perholtz 8/31/92 COUNT 1 Austin F. and Estelle R. Weber 7-28-92 DED DEPRM RP STP TF Franklin Ray and Ann Mae Sumpter DED DEPRM RP STP TE 100 Comments Richard A. Robert T. and Emily C. Baker DED DEPRM RP STP TE Michael J. and Lori Greco DED DEPRM RP STP TE INDITER Sudbrook Associates in Drocess DED DEPRM RP STP TE Philip M. and Sandra L. Cowett DED DEPRM RP STP TE NO Compants Gaetano Platania DED DEPRM RP STP TE Kurt D. and Denise E. Zumwalt DED DEPRM RP STP TE COUNT 8



ZONING OFFICE





700 East Joppa Road Suite 901 Towson, MD 21204-5500

OCTOBER 19, 1992

(410) 887-4500

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204

RE: Property Owner: GAETANO PLATANIA

Location: #2067 AND #2069 YORK ROAD AND #1 CINDER ROAD

Item No.: + 91 (MJK) Zoning Agenda: SEPTEMBER 28, 1992

Item No.: + 91 (MJK)

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Planning Group

Special Inspection Division

JP/KEK

